

REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~APPEALS~

Friday March 16, 2018
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Mark Liotta, Commissioner Jordan Russell and Commissioner Megan Tilly.

Staff present to support the Commission: Lindsey Christopher, Dana Esparza and Monica Pack.

**STATEMENT OF OKLAHOMA OPEN MEETING LAW
COMPLIANCE**

Notice of this Regular Meeting was filed with the Secretary of State's office on Monday, November 13, 2017 at 9:05 a.m., in compliance with the Open Meeting Act.

The Agenda was posted more than 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 North Stiles, the Commission's principal office.

CALL TO ORDERPresiding Appellate Officer, Chairman Liotta

Call to order 9:00 a.m. by Chairman Liotta, Presiding Appellate Officer.

ROLL CALLPresiding Appellate Officer, Chairman Liotta

After the roll call was taken, Chairman Liotta announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Special Appeal Meetings of January 12, 2018 and February 9, 2018, will be considered for approval.

Commissioner Liotta presented the minutes of the February 9, Meeting for approval.

Motion: Commissioner Tilly made a motion to approve the minutes of the February 9, 2018 Meeting.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

Filiberto Torres v. Impact Roofing (No Insurance) and Alpha and Omega LLC (Unknown or not Specified) File # CM2015-02856K

Both Respondent Impact Roofing and Alpha and Omega LLC filed an appeal from the order issued by Administrative Law Judge McMillin. Tim Kent represented the Claimant. Jennifer Ahrend represented the Respondent Impact Roofing and Angelica Ortiz represented Respondent Alpha and Omega LLC.

Motion:

After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to deny Claimant's motion to dismiss and affirm the Administrative Law Judge's order and issue an order authorizing the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Chad Scott Jackson v. BJS Restaurants Operations Co. and Arch Insurance Co. File # CM2016-03984F

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Bob Burke represented the Claimant and Donald A. Bullard represented the Respondent.

Motion:

After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take this matter under advisement.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

Floyd D. Dick v. Jonathan Sedlacek (Unknown) & Midwest Radiator LLC (Unknown or not Specified) File #CM2016-01492Q

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. John R. Colbert is the attorney of record for the Claimant and Lewis Berkowitz is the attorney of record for Respondent.

Chairman Liotta announced on the record that this case has been stricken to be heard at a later Oral Argument date due do non-service of one of the parties.

Anthony Maschino v. Temtrol Inc., & New Hampshire Insurance Co., File #CM2017-00623A

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Jeffrey M. Cooper represented the Claimant and Connie M. Wolfe represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and issue an order authorizing the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

David Phi Duong v. ATC Drivetrain Inc. & Great American Alliance Insurance Co. & Prime Industrial Recruiters Inc., & CompSource Mutual Ins. Co., (FKA CompSource Oklahoma) File #CM2016-05607L

Respondent ATC Drivetrain & Great American Alliance Insurance Co. filed an appeal from the order issued by Administrative Law Judge Sommer. C. Scott Beuch represented the Claimant and John Shears represented Respondent ATC Drivetrain & Great American Alliance Insurance Co. and Robert A. Manchester represented Prime Industrial Recruiters Inc., & CompSource Mutual Ins. Co.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and draft a detailed order with explanation to be considered for approval at a future meeting.

Second: Commissioner Tilly

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Ofelia (Morales) Ramirez v. Salas Urban Cantina & Amtrust Insurance Co. of KS Inc., File #CM2016-05607L

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Kim N. Nguyen represented the Claimant and Michael Fagan represented the Respondent.

Motion:

After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and issue an order authorizing the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Jeff Dobson v. Express Employment Professionals & New Hampshire Insurance Co., File #CM2016-07204A

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Bret A. Unterschuetz represented the Claimant and Travis A. Fulkerson represented the Respondent.

Motion:

After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and issue an order authorizing the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Tamary S. Rhodes v. Oklahoma Turnpike Authority State Of Oklahoma, File #CM2016-04253H

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. Kathryn Black represented the Claimant and Cynthia J. Braly represented Respondent.

Motion:

After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and issue an order authorizing the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. Commission Consideration of Adoption of Final Order in the Following Case:

Venita L. Mukes v. Church's Chicken & New York Marine & General Insurance Co., File #CM2016-03369A

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Herbert E. Elias Jr. represented the Claimant and Heather A. Lehman Fagan represented Respondent.

This case came on for Oral Argument on February 9, 2018. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took the case under advisement. An order was drafted and distributed to the Commissioners.

Motion: Commissioner Russell moved to adopt the proposed order as written.

Second: Commissioner Tilly

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ORDER ADOPTED

Maria Contreras v. Johnson Controls Inc., & Indemnity Insurance Co. of North America, File #CM2016-02636A

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Laura Beth Murphy represented the Claimant and Dale R. Kimsey represented the Respondent.

This case came on for Oral Argument on February 9, 2018. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took the case under advisement. An order was drafted and distributed to the Commissioners.

Motion: Commissioner Tilly moved to adopt the proposed order as written.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ORDER ADOPTED

Dillon S. Rose v. Berry Plastics Corp., & Safety National Casualty Corp., File #CM2017-02339H

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Kathryn Black represented the Claimant and Lee Endicott represented the Respondent.

This case came on for Oral Argument on February 9, 2018. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to reverse the Administrative Law Judge's order and instruct Commission Counsel or other staff member to draft a proposed order to be considered at a future meeting. An order was drafted and distributed to the Commissioners.

Motion: Commissioner Tilly moved to adopt the proposed order as written.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ORDER ADOPTED

Richey C. Gowens v. McAlester Regional Health Center (Own Risk)
File #CM2016-05003K

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Bret A. Unterschuetz represented the Claimant and Gregg G. Fuller represented for Respondent.

This case came on for Oral Argument on February 9, 2018. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took the case under advisement.

Motion: Commissioner Russell moved to continue this matter to a future date.

Second: Commissioner Tilly

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: CONTINUED

C. Discussion and Consideration of a Policy for Orders of the Commission en Banc

The Commission will considered adopting a policy for orders issued by the Commission en banc. The policy could include procedures for the selection of certain orders to be added to the Commission's precedent manual and posted to the Commission website. The Commissioners discussed in detail the pros and cons of this policy.

Motion: Commissioner Russell moved to continue this matter to April 20, 2018.

Second: Commissioner Tilly

Those Voting Aye: Commissioner Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: CONTINUED

D. Announcements

Commission's next special business meeting is Thursday, April 19, 2018.
Commission's next regular meeting regarding Appeals is scheduled for Friday, April 20, 2018.

ADJOURNMENT

Motion: Commissioner Tilly moved to adjourn the meeting at approximately 3:45 p.m.

Second: Commissioner Russell

Those Voting Aye: Commissioner Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.